# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**SPECIAL CIVIL APPLICATION No. 5352 of 1998**
**With**
**SPECIAL CIVIL APPLICATION No. 5352 of 1998**
**To**
**SPECIAL CIVIL APPLICATION No. 5356 of 1998**

**For Approval and Signature:**

**HON'BLE MR JUSTICE KS JHAVERI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**UPLETA MUNICIPALITY - Petitioner(s)**

**Versus**

**BALABHAI HAMIRBHAI SUVA & 3 - Respondent(s)**

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**Appearance :**
MS VINITA VINAYAK for M/S THAKKAR ASSOC. for Petitioner No(s).: 1.
MR DG CHAUHAN for Respondent No(s).: 1, 2,3.
NOTICE SERVED for Respondent No(s).: 4.

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**CORAM : HON'BLE MR JUSTICE KS JHAVERI**

**Date : 09/08/2005**

**ORAL JUDGMENT**

1.0 The petitioner has prayed to quash and set aside the

award dated 12.01.1998 passed in terms of the Settlement filed in Reference (ITR) No. 300 of 1997 by the Industrial Tribunal, Rajkot and to remand the matter to the Tribunal for deciding the same on merits afresh.

2.0 The brief facts of the case are that the respondents herein were appointed as Rojamdars by the petitioner Municipality. On 20.11.1997, the General Body of the petitioner passed a Resolution relieving the respondents from their services. Being aggrieved by the said action, the respondents raised a dispute, which, ultimately, culminated into a reference before the Industrial Tribunal, Rajkot. On 12.01.1998, a Settlement pursis was filed and the reference came to be disposed of in terms of the said Settlement.

2.1 It is the case of the petitioner that before the award could be published, the Ex-President of the petitioner Municipality passed an order regularizing the services of the respondents on the same day itself, i.e. 12.01.1998 since the Ex-President was to retire on 15.01.1998. However, by order dated 07.02.1998, in pursuance to the Resolution dated 10.12.1997, the respondents were terminated from the service.

2.2 Against the said order, the respondents approached this Court by way of a petition being S.C.A. No.1599 of 1998, wherein this Court granted mandatory stay by directing the petitioner Municipality to reinstate the respondents. Being aggrieved by the said order, the petitioner preferred an appeal being L.P.A. No. 378 of 1998 which is pending. Thereafter, the Tribunal passed the impugned award. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. It is not in dispute that the Industrial Tribunal passed the impugned award in terms of the Settlement pursis. However, in view of the fact that serious allegations have been made against the then Management of the petitioner Municipality, it is desirable that the Industrial Tribunal considers the matter on merits afresh.

4.0 In above view above of the matter, the impugned award dated 12.01.1998 passed in Reference (ITR) No. 300 of 1997 by the Industrial Tribunal, Rajkot is quashed and set aside. The Industrial Tribunal, Rajkot is directed to decide the matter afresh, after considering the

allegations that have been leveled against the then Management of the petitioner Municipality. It is made clear that this Court has not entered into the merits of the matter and the Tribunal while deciding the matter afresh shall not be influenced by the fact that this Court has quashed its order and has remanded the matter.

4.1 With the above observations, these petitions stand disposed of. Rule is made absolute accordingly with no order as to costs. Office is directed to sent back the Records and Proceedings to the Court concerned.

(K. S. JHAVERI, J.)

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